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notice thereof to the parties in controversy; and at such time and place, or at other times and places to which an adjournment may be had, it shall determine the rules of its proceedings and thereupon hear the parties and decide between them; and the decision when made or signed by the majority of the members thereof and delivered to the nations in controversy, shall be final and conclusive.

If any nation receiving the notice and request to appoint members of such Tribunal shall fail to transmit the names of the four persons as herein provided within two months after receipt of notice to do so, then the states in controversy shall each appoint two persons in their places, who shall be subject to ultimate rejection in the same manner as those appointed by the neutral states; and if either of the parties to the controversy shall fail to signify its rejection of a name from the list, as herein required, within one month after request from the other to do so, such other may reject for it. If any of the persons selected to constitute this Tribunal shall die, or for any cause fail to serve, the vacancy shall immediately be filled by the nation making the original appointment.

5. Each nation signing these articles as a party binds itself to unite in forming a Joint High Commission and a High Tribunal of Arbitration in all proper cases and to submit to the decisions thereof, when constituted and conducted as herein required.

6. If any of the said nations shall begin and prosecute war against another wrongfully and in disregard of the provisions hereby adopted for the preservation of peace, such nation shall have no right to insist on the performance of neutral duties by the governments of any of the other states; and in such a case the offending nation shall have no lawful right to take or hold property real or personal, by way of conquest, from its adversary.

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#### "LINCOLN'S SKILL AS A LAWYER."—A CORRECTION.

IN an article under the title, "Lincoln's Skill as a Lawyer," in the February number of the *NORTH AMERICAN REVIEW*, appears the following—the language being credited to a Judge Bergen, of Topeka, Kan.:

"The first time I saw Lincoln as a lawyer was in the old Morgan County Court House, at Jacksonville, when he was defending Colonel Dunlap, a wealthy, aristocratic Democrat, in an action for \$10,000 damages, brought against him by the editor of what was then called the abolition paper. The action grew out of a deliberately-planned and severe cowhiding administered by the Colonel to the editor, on a bright Saturday afternoon, in the public square, in the presence of hundreds of the town and country people, whom the Colonel desired to witness that novel and exciting performance. Besides local counsel, the editor had employed Ben. Edwards, who was the most noted for eloquence of all the Democratic lawyers in the State. Colonel Dunlap retained Lincoln as one of his lawyers for the defence."

Then follows what purports to be a description of a scene in the trial above alluded to, in which Mr. Edwards, the alleged attorney for the plaintiff, is represented as having "wept and made the jury and spectators weep," while Mr. Lincoln, for the defendant, is pictured as rising in an ungainly fashion, taking off his coat, indulging in "a long, loud laugh accompanied by his most wonderfully grotesque facial expression;" then taking off his cravat and repeating his laugh, and finally removing "his vest, showing his one yarn suspender," after which he began his argument, of which, as the writer states, "the result was to at once destroy the effect

of Edwards's tears, pathos, towering indignation, and high-wrought eloquence."

Now, it is my fortune to have been the editor assaulted—though not in the place or manner, or at the time, described in the above paragraph. I therefore have some recollection of the events attempted to be described with so much detail. Beyond the fact that there was an assault, a prosecution for damages, and that Abraham Lincoln appeared for the defendant, there is scarcely a single element of truth in this whole circumstantially told story. There was no such "Wild West" gala-day performance as a "severe cowhiding, . . . on a bright Saturday afternoon, in the public square in the presence of hundreds of the town and country people," as invited guests or otherwise; no "Ben. Edwards" connected with the suit for damages; no tears sought to be wrung from the jurors or the spectators by him or anybody else, and, finally, no such grotesque exhibition of buffoonery as that attributed to Mr. Lincoln.

The facts of the assault are these: In May, 1853, as editor of the *Morgan Journal* at Jacksonville, Ill.—not an "abolition," or even a political paper at that time, although it was, later, one of the earliest to join in the organization of the Republican party—I accepted and published a communication criticising the management of the Hospital for the Insane, of which one James Dunlap was a trustee. Dunlap took exceptions to the article and called for the name of the author, which was granted. He then demanded the manuscript, which was refused. Two days after, having occasion to visit the office of the Wabash Railway, I was seated alone with the ticket agent in the office, when Dunlap, accompanied by two of his friends, entered and, without notice or warning of any kind, commenced an assault, striking me one or two blows with a stick he carried, when his weapon was taken from him. There were no spectators except those Dunlap had brought with him, and perhaps a few others who arrived later, attracted by the disturbance.

The following contemporaneous account of the affair is taken from the *Western Freeman* of June 21, 1853—a paper published at Galesburg, Ill., of which Rev. Jonathan Blanchard, then President of Knox College, was editor. After stating some of the grounds of complaint with the management of the Hospital for the Insane—in which Dr. Blanchard had had an insane wife as a patient—he says:

"A member of the former Board (Mr. Becraft) handed to the *Journal* a communication (which was printed) in which some of the above facts were respectfully stated. Colonel Dunlap demanded of young Selby, editor of the *Journal*, the name of the writer, which Selby gave him. He then demanded the manuscript, which Selby declined giving up as what he had no right to ask. Dunlap then proceeded to the ticket office at the railroad depot followed by his son-in-law, McClermand (and one A. C. Dickson), and struck Selby, who was sitting there, a violent blow upon the head with a heavy staff, causing the blood to flow freely. Selby arose and took the club from Dunlap's hand, and also a whip which his attendants furnished him (Dunlap) with, when bystanders interfered and prevented further violence."

So much for the assault and the circumstances attending it, so widely at variance with the story quoted at the beginning of this article. Dunlap was fined \$25 in a Justice's Court for breach of the peace, and afterward a suit for damages was instituted against him. My principal attorney was David A. Smith, a high-minded and honorable man, who, like Edward Coles, Illinois' second Governor, had removed to Illinois from a Southern State, bringing his slaves with him and liberating them on free soil. Mr.

Lincoln appeared as associate counsel for the defendant, his services consisting chiefly in a plea for "mitigation of damages," but it is due to his memory to say that he made no such farcical exhibition of himself as described. The utter improbability of his going through the grotesque performance of divesting himself of his clothing until he had exposed "his one yarn suspender," is proved by the fact that the final hearing at which he made his argument was a cool morning in the early spring—March 22, 1854.

Of Mr. Lincoln's bearing during this trial the Hon. Henry B. Atherton, of Nashua, N. H., who was present and made a record of the matter at the time in his diary, says :

"I had gone to court to hear Brown (Dunlap's chief counsel) simply because he was called a Judge. I never had heard of Lincoln before, but came to the conclusion after hearing him that he was the better speaker of the two, though I believe he was only associate or junior counsel. I should say there was absolutely nothing of the grotesque buffoonery mentioned in the printed article ; no long and loud laughs ; no removing of coat, vest, and cravat down to 'his one woollen sus pender' ; no weeping by jury or spectators, and absolutely no 'Ben. Edwards,' whoever he might have been. I should say that Lincoln tried to belittle the injury done you, and did all he legitimately could to reduce the amount of the verdict. . . . I remember that you had the sympathy of all the best people of Jacksonville, who were not blinded by their political and pro-slavery ideas."

The Hon. I. L. Morrison, a leading attorney of Jacksonville, Ill., now the oldest member of the bar of that city, who was also present at the trial, writes of the article in the REVIEW :

"I think the writer does Mr. Lincoln great injustice in that article. I was at the time of the trial a member of the bar, residing in this city, and was present during the trial. The history of the case, as given by Judge Bergen, did not agree with my recollection, and for that reason I examined the record and files now in the office of the Circuit Court of this County." [Then after giving a history of the proceedings in the suit for damages, Mr. Morrison continues:] "Mr. Lincoln addressed the jury in behalf of his client, and urged the facts in evidence did not call for a verdict assessing vindictive [or punitive damages, contending the facts appearing showed the personal injuries sustained were not serious. The address was not a lengthy one. . . . To represent Mr. Lincoln as trying to influence the jury with something not in the evidence is to place him upon the level of the pettifogger. Excepting Stephen T. Logan, none stood above him in his profession at that time. I would not be understood as contradicting anyone from memory alone, as to what occurred so long ago, but the facts in the case, as supported by the record, strongly tend to show that Judge Bergen's memory is at fault in this respect. Mr. Lincoln made no such exhibition of himself as is represented."

The occasion alluded to in this article was the first on which I had ever seen Mr. Lincoln. Later I became well acquainted with him and was associated with him in the steps which led to the organization of the Republican party in Illinois. The incident referred to never furnished any ground for feeling between us, and from the character and subsequent position of my assailants, as well as his bearing toward me personally, I had abundant reason for believing that he regretted having been brought into the case.

While exercising my right, by the courtesy of the REVIEW, to refute loose and reckless misstatements of fact of an unjust and offensive character as affecting myself, it has been none the less the purpose of this article to vindicate the memory of Abraham Lincoln from statements, put forth in the name of history, picturing him to a succeeding generation, in the years of his mature manhood, in the light of a mountebank and buffoon.

PAUL SELBY.